

TEXT AMENDMENT STAFF REPORT



Hearing Date: June 26, 2017

Case File #: TA-17-01

Updated: 02/09/17, 03/09/17, 04/07/17, 4/20/17, 5/19/17, 7/6/17

General Description: Amend Section 10.06 to provide additional standards for golf course tree removal and tree preservation in general.

☒ Town Initiated

☐ Citizen Initiated

Applicant(s): Town of Sunset Beach

APPLICATION OVERVIEW:

The Sunset Beach Planning & Inspections Department has initiated an application, at the direction of the Planning Board, to modify the tree removal procedures for golf courses.

STAFF COMMENTARY

The proposed text amendment provides clarity to the tree removal process for golf courses and also modifies other sections of the UDO pertaining to tree preservation. In particular, language specifying applicability and requirements for Heritage Tree Surveys is currently contained in Appendix C. As part of the proposed text amendment, this language has been moved into the body of the UDO under Section 10.06 Preservation of Trees.

PROPOSAL

The proposed amendment clarifies requirements for golf course tree removal and tree preservation in general. The following modifications have been proposed as part of the text amendment:

1. Per the UDO no permit is required for removal of non-heritage trees – this has been clarified.
2. Up to 25 total heritage trees per 18-hole course per year are allowed without justification, but a heritage tree survey is still required. The golf course is still

subject to 10.06 (C)(5) and must replant on a one for one ratio. To remove more than 25, the applicant will be subject to 10.06 (C)(3).

3. All heritage trees must be replaced 1 for 1.
4. Non-heritage trees do not need to be replaced.
5. Tree survey/site plan should show individual trees to be removed, stands of trees to be protected, heritage trees not removed, and all property lines. In addition, a site plan must also be provided to display the location of replacement heritage trees. If possible, the replacement heritage trees may be displayed on the tree survey removal site plan.
6. Specify requirements for a site plan and/or survey with location for newly planted replacement heritage trees. No requirement currently exists.
7. Remove Planning Director authority to waive Heritage Tree survey and place authority with the Planning Board.

[UPDATE 03-09-17] The text amendment has been clarified to state that a tree removal permit is **only** required for applicants wishing to remove a “heritage tree”. In addition, the UDO Administrator has replaced the Building Inspector as the appropriate official responsible for issuance of such permits. The text amendment has also been modified to allow golf course tree removal without justification for up to 25 heritage trees and a provision has been added to allow for immediate removal of trees which may pose a threat to health, safety, or welfare. Lastly, golf course superintendents have been designated as an appropriate party to submit heritage tree surveys.

[UPDATE 04-07-17] The requirement for marking trees to be removed has been deleted and further clarification of requirements has been provided. The proposal portion of the staff report (above) has been updated to reflect current text amendment language.

[UPDATE 04-20-17] Corrections to the above summary were made (and are represented in said summary). Further language clarity for the proposed 10.06(D)(5) was changed regarding replacement heritage trees. These changes have been highlighted for ease of review. With these changes, the Planning Board voted to make a decision for this item at their May 18, 2017 regular meeting and advertise a public notice accordingly.

[UPDATE 05-19-17] Clarified the language in above summary at request of the Board Chair to better reflect the language in the proposed ordinance. Specifically that a survey is still required and that any tree removed must be replanted one for one.

[UPDATE 07-6-17] After the Town Council held their public hearing on June 26, 2017 and started discussion, they felt that only regulating heritage trees for golf courses was too lenient. They decided they wanted language that still reflected all trees, not just heritage trees. They believed that golf courses would clear cut all other trees if allowed. Staff explained as the ordinances currently read, they technically could do this now.

Further, there was some concern regarding private property and tree removal. Staff attempted to explain that this was a civil matter and that the ordinances already spoke to private property concerns as this is intended for removal only on property owned by the applicant, but the Mayor was not satisfied.

The Mayor was also dissatisfied with relocated existing language under Heritage Tree Survey (B). He felt that developers could use this as a loophole of sorts to get out of the survey process.

So it was decided that Staff should take their comments under consideration and prepare new language for the Planning Board to look at before the Council reviews it again. Staff has proposed changes marked in **BLUE to represent the new changes** while leaving the **other proposed changes in RED**. Largely, golf course tree removal was moved from 10.06(C)(6) and developed as 10.06(E). 10.06(B)(2) was struck out.

[UPDATE 07-20-17] The Planning Board discussed the proposed revised changes to accommodate the comments from the Town Council at the July 20, 2017 regularly Planning Board meeting. Based on their comments, some minor alterations were proposed. These involved including consideration of tee boxes and changing distances from cart paths from 10 feet to 15 feet. As above, new changes are in **BLUE** and previous proposed changes are still in **RED**. With these minor corrections the planning board felt comfortable sending this back to the Council as reviewed.

As the public hearing was held, there is no need for further public hearings unless so directed by the Council to hold one.

PROPOSED TEXT AMENDMENT

Stricken text is to be removed and underlined text is proposed.

Section 10.06 Preservation of Trees

(A) Purpose. The purpose of this section is:

- (1) To recognize the importance of mature trees to the quality of life;
- (2) To conserve energy and retard storm water runoff;
- (3) To safeguard and enhance property values and to protect public and private investment through protection of significant **existing trees**; and
- (4) To prevent the indiscriminate removal of trees.
- (5) To protect trees considered valuable to the Town of Sunset Beach as defined in Appendix C, **Heritage Trees**/Plant List.

(B) Heritage Tree Survey

(1) A heritage tree survey shall be required for any multi-family development, nonresidential development, major subdivision or planned unit development along with

appropriate application for a site plan, preliminary plat, or special use permit. The heritage tree survey shall show the general location, species and size of any tree. However, a heritage tree survey shall not be required for land in the floodway (unless filled or developed in accordance), preserved wetlands and wetlands buffers, steep slope areas, and stream buffers.

~~(2) For development plans where specific building locations are not shown, a more generalized survey of vegetation may be provided in lieu of a heritage tree survey. This survey shall describe existing forest stands, indicating the average species and size of trees on the tract.~~

(32) Having better information about the location of heritage trees is not especially useful where plans call for the preservation of large areas of undisturbed vegetation. An example is the pervious portions of developments in watershed protection districts. Producing such information adds to the project's cost without providing information that could result in project redesign. Where unique site conditions or a proposed development arrangement indicate that the required heritage tree survey would produce little useful information, the Planning Board shall have the authority to waive the requirements for a heritage tree survey for all or a portion of the tract.

(BC) ~~Tree Removal~~ Permit Required for Heritage Tree Removal.

(1) No person, land owner, golf course, or corporation directly or indirectly, shall remove any **heritage tree** from private property without first obtaining a tree removal permit as provided in this chapter. The requirement for tree removal permits shall apply within the entire area covered by the Town's **zoning** authority including the areas known as the mainland, beach, and extra territorial jurisdiction except a lot occupied by a **single-family** home. A tree removal permit is not required for non-heritage trees. See Appendix C for a listing/definition of such trees.

(2) All persons seeking a permit for removal of a **heritage tree** shall make applications to the ~~Building Inspector~~ UDO Administrator.

(3) The ~~Building Inspector~~ UDO Administrator shall issue a tree removal permit if the **applicant** demonstrates one (1) or more of the following situations:

(a) For **new construction**, the **applicant** is able to show that essential site improvements cannot be installed without removal of the **heritage tree(s)**. Examples of essential site improvements are the principal/**accessory building(s)**, off-**street** parking, driveway, storm water management facilities;

(b) The **heritage tree** is dead, severely diseased, injured, or in danger of falling close to existing or proposed **structures**;

(c) The **heritage tree** poses an identifiable threat to individuals or **public safety**; and/or

(d) Removal of the **heritage tree** is necessary to enhance or protect the health or condition of adjacent trees and/or golf course tee box/fairway/putting green turf.

(4) Moving **heritage trees** is encouraged if adequate care is taken to ensure survival of the tree.

(5) **Heritage trees** permitted to be removed shall be replaced on a one (1) for one (1) basis with an approved tree. ~~Size and species are to be determined from a standard approved tree list established and published by Town Hall. Replacement trees shall be planted at minimum caliper of 2 inches at 4.5 feet above ground and be of a species identified in the Canopy or Understory Tree list contained in Appendix C of this ordinance.~~

~~(6) Golf courses may remove heritage trees based on the following standards:~~

~~(a) Any golf course operation may remove up to twenty-five (25) heritage trees per year without justification per 18 hole course. A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty-five (25) trees annually. A heritage tree survey shall still be required.~~

~~(b) All heritage trees removed shall be replaced in accordance with 10.06 (C)(5).~~

~~(b) For all trees in excess of twenty-five (25), golf courses must comply with the Town's standard tree removal policy.~~

~~(c) Any golf course operation may remove any tree not deemed to be a heritage tree within 10 ft. of any clearly identified and functioning cart path without justification or permit. Heritage trees within 10 ft. of a cart path must meet the standards in 10.05(B) above.~~

(CD) Requirements for Heritage Tree Removal Permit Application.

(1) Brief written description of the reason for removal of the heritage tree(s) in accordance with Section 10.06 (C)(3).

(2) A **site-plan heritage tree survey**, prepared by a professional surveyor, professional engineer, landscape architect, golf course superintendent, or licensed arborist, showing the approximate location of all **heritage trees** or groups of trees, property lines, location and **footprint** of any and all existing or proposed buildings and **structures**, and the removal plan must identify the size, species, height, drip line, and health of all **heritage trees** and groups of trees.

(3) A description of the methods proposed to move a **heritage tree**, if applicable.

(4) Photographs of trees, or groups of trees, to be removed.

(5) The location of all heritage tree replacement trees shall be provided on the heritage tree survey, landscape plan, and/or site plan. Replacement trees shall be clearly identified and must include planting size and species. A planting schedule/list may accompany the plan/survey as necessary.

(65) Any other information that may be required by the ~~Building Inspector~~ **UDO Administrator** to issue the permit.

(76) The ~~Building Inspector~~ **UDO Administrator** may require a report from an arborist, horticulturalist, or other Town-approved professional regarding the health of a tree to be removed.

(E) Tree Removal for Golf Course Operations

Golf courses may remove trees (heritage or otherwise) based on the following standards:

(1) Any **golf course** operation may remove up to twenty-five (25) **trees** of any variety per year without justification per 18 hole course.

(2) A permit will be required for tracking purposes; however, no basis for removal is required for up to twenty-five (25) trees annually. A heritage tree survey shall still be required.

(3) All **heritage trees** removed shall be replaced in accordance with 10.06 (C)(5).

(4) For all trees in excess of twenty-five (25), **golf courses** must complete a survey of the areas proposed for tree removal and seek justification for removal as per 10.06(C)(3). All other provisions of the ordinance regarding **heritage trees** must be met.

(5) Any golf course operation may remove any tree not deemed to be a **heritage tree** within 15 ft. of any clearly identified and functioning cart path on their own property without justification or permit. **Heritage trees** within 15 ft. of a cart path must meet the standards in 10.05(B) above.

Appendix C. SECTION C.1 HERITAGE TREE DETERMINATION

~~(A) A heritage tree survey shall be required for any multi-family development, nonresidential development, major subdivisions or planned unit development, with applications for site plan, preliminary plat, development plan, or special exception permit. The heritage tree survey shall show the general location, species and size of any tree. However, a heritage tree survey shall not be required for land in the floodway (unless filled or developed in accordance), preserved wetlands and wetlands buffers, steep slope areas, and stream buffers.~~

~~(B)~~ For purposes of this Ordinance, a heritage tree shall be defined as follows:

~~(A)~~ ~~(1)~~ An American holly with a trunk caliper measurement of 8" or greater measured at 4.5 feet above ground;

(B) ~~(2)~~ A flowering dogwood with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;

(C) ~~(3)~~ A redbud with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground;

(D) ~~(4)~~ A live oak with a trunk caliper measurement of 4" or greater measured at 4.5 feet above ground; and

(E) ~~(5)~~ Any tree species included in the planting table (Section C.2) with a trunk caliper measurement of 18" or greater measured at 4.5 feet above ground.

~~(C) For development plans where specific building locations are not shown, a more generalized survey of vegetation may be provided in lieu of a heritage tree survey. This survey shall describe existing forest stands, indicating the average species and size of trees on the tract.~~

~~(D) Having better information about the location of heritage trees is not especially useful where plans call for the preservation of large areas of undisturbed vegetation. An example is the previous portions of developments in watershed protection districts. Producing such information adds to the project's cost without providing information that could result in project redesign. Where unique site conditions or a proposed development arrangement indicate that the required heritage tree survey would produce little useful information, the Planning Director shall have the authority to waive the requirements for a heritage tree survey for all or a portion of the tract.~~

Action:

Commentary:

Action:

Commentary:

TOWN COUNCIL SUMMARY**Action:**

(C) _____ The Town Council hereby adopts the proposed amendment to the Unified Development Ordinance and finds that it is (i) consistent with the Town's comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan), Policy 9 stating that "The Town encourages efforts to preserve tree cover in new development and redevelopment," and finds that it is in the public interest because protection of tree canopy mitigates stormwater runoff, increases property values, and enhances air quality.

(D) _____ The Town Council hereby denies the proposed amendment to the Unified Development Ordinance and finds that (i) it is not consistent with the Town's comprehensive plan (2010 Town of Sunset Beach CAMA Land Use Plan) and/or (ii) it is not in the public interests for the following reasons:
_____.

Adopt (A)_____ Deny (B)_____

(For _____ Against _____ Abstained _____)

Commentary:

After the June 26, 2017 Public Hearing, the Council reviewed the language and requested Staff including the Planning Board to propose amendments based on their commentary.